

Regular Session, 2012

HOUSE BILL NO. 389

BY REPRESENTATIVE SCHRODER

CHILDREN/DCFS: Makes technical corrections to provisions relative to child support enforcement functions of DCFS

1 AN ACT

2 To amend and reenact R.S. 6:333(F)(14), R.S. 9:315.9(A)(6), 315.16(A), 315.40(1),
3 399.1(A) and (F)(3) and (4), and 406(B)(2) and (C)(2), R.S. 11:441.1(F), R.S.
4 13:4291(B)(1) and (C), R.S. 27:364(A)(1)(b)(vi), R.S. 40:34(B)(1)(h)(iv) and (E)(1)
5 and 46.1(D) and (F)(introductory paragraph), R.S. 46:56(M)(1), 236.1.1(9)(b) and
6 (13), 236.1.2(G), 236.1.4(E), 236.1.5(C), 236.1.7(B), 236.1.8(D), 236.3(A)(2),
7 236.10(A), (B), and (D), 236.12(B)(1), 236.14(D)(1)(introductory paragraph) and
8 (H)(2), 236.15(A)(1), 236.16, 238(F), and 2136.2(F), and R.S. 51:1442(4), relative
9 to the Department of Children and Family Services; to provide for proper designation
10 of certain sections and divisions of the department; to make technical changes; and
11 to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 6:333(F)(14) is hereby amended and reenacted to read as follows:

14 §333. Disclosure of financial records; reimbursement of costs

15 * * *

16 F. The following disclosures by a bank or any affiliate are hereby
17 specifically authorized and, except as otherwise provided in this Subsection, nothing
18 in this Section shall prohibit, restrict, or otherwise apply to:

19 * * *

1 provisions of 42 U.S.C. 667(a) and present the same to the legislature sixty days
2 prior to the beginning of the 2008 Regular Session of the Legislature and every four
3 years thereafter.

4 * * *

5 §315.40. Definitions

6 As used in this Subpart:

7 (1) "Administrator" means the administrator of the ~~Support Enforcement~~
8 ~~Services Program~~ child support enforcement section, office of children and family
9 services, Department of Children and Family Services.

10 * * *

11 §399.1. Dismissal of final order following judgment of paternity; time periods;
12 procedure; effects

13 A. Notwithstanding any other provision of law, a judgment establishing
14 paternity may be set aside or vacated by the adjudicated father of a child, the child,
15 the mother of the child, or the legal representative of any of these persons. The
16 proceeding shall be instituted by ordinary process in a court of competent
17 jurisdiction and service shall be made upon the office of children and family
18 services, child support enforcement services section of the Department of Children
19 and Family Services, if services are being provided by the department. The burden
20 of proof shall be upon the party seeking to set aside or vacate the judgment of
21 paternity. The proceeding shall be brought within a two-year period commencing
22 with the date on which the adjudicated father knew or should have known of a
23 judgment that established him as the father of the child or commencing with the date
24 the adjudicated father knew or should have known of the existence of an action to
25 adjudicate the issue of paternity, whichever is first.

26 * * *

27 F.

28 * * *

1 C.

2 * * *

3 (2) Neither the state of Louisiana, its officers, employees, agents,
4 contractors, nor the office of children and family services, child support enforcement
5 ~~services~~ section of the Department of Children and Family Services shall be liable
6 to compensate any person for child support paid or any other costs as a result of the
7 revocation of any authentic act of acknowledgment or the revocation of any
8 judgment of paternity or support in accordance with this Section.

9 * * *

10 Section 3. R.S. 11:441.1(F) is hereby amended and reenacted to read as follows:

11 §441.1 Early Retirement and Payroll Reduction Act of 2006

12 * * *

13 F. Notwithstanding any other provision of law or of this Section to the
14 contrary, the provisions of this Section which eliminate vacated positions shall not
15 be applicable to any positions of the Department of Children and Family Services,
16 office of children and family services, child support enforcement ~~services~~ ~~division~~
17 section; or to Department of Public Safety and Corrections security officers or
18 probation and parole officers; or to any positions of the LSU health care services
19 division.

20 * * *

21 Section 4. R.S. 13:4291(B)(1) and (C) are hereby amended and reenacted to read as
22 follows:

23 §4291. Effect of child support payments; legal mortgage and privilege; affidavit of
24 support owed; prescription

25 * * *

26 B.(1) In all cases where the Department of Children and Family Services is
27 enforcing child support services, a judgment created by operation of law pursuant to
28 Subsection A of this Section shall be executory in all respects, without the necessity
29 of a judicial proceeding to determine the amount actually owed. The director of the

1 Section 7. R.S. 46:56(M)(1), 236.1.1(9)(b) and (13), 236.1.2(G), 236.1.4(E),
2 236.1.5(C), 236.1.7(B), 236.1.8(D), 236.3(A)(2), 236.10(A), (B), and (D), 236.12(B)(1),
3 236.14(D)(1)(introductory paragraph) and (H)(2), 236.15(A)(1), 236.16, 238(F), and
4 2136.2(F) are hereby amended and reenacted to read as follows:

5 §56. Applications and client case records; definitions; confidentiality; waiver;
6 penalty

7 * * *

8 M.(1) Notwithstanding the foregoing provisions of this Section, payment
9 histories on child or spousal support obligations maintained by the department in
10 conformity with the provisions of Title IV-D of the Social Security Act or by the
11 department's child support enforcement ~~services program~~ section may be released
12 to a consumer reporting agency upon its application in writing and payment of a fee
13 covering the department's actual costs for duplicating, copying, or transmitting the
14 information. Payment histories shall not be released without the removal or
15 obliteration of any confidential information contained therein, including but not
16 restricted to the payee's address or receipt of Aid to Families with Dependent
17 Children, or any successor to that program, or other state assistance.

18 * * *

19 §236.1.1. Family and child support programs; definitions

20 For the purposes of this Subpart, the following items shall mean:

21 * * *

22 (9)

23 * * *

24 (b) "Absent parent" means any person who does not reside with his
25 dependent child and who is responsible for providing financial support for that child
26 and against whom the ~~Support Enforcement Services Program~~ child support
27 enforcement section of the department is enforcing or seeking to enforce or modify
28 a support obligation pursuant to a plan described in Title IV-D of the Social Security
29 Act and made applicable to the state under this Subpart. An "absent parent" may

1 include but is not limited to the natural parent, adoptive parent, and the putative or
2 alleged father. This definition shall apply retroactively to all cases that the ~~Support~~
3 ~~Enforcement Services Program~~ child support enforcement section of the department
4 is enforcing or seeking to enforce or modify.

5 * * *

6 (13) "~~SES program~~ CSE administrator" means the ~~administrator~~ program
7 executive director of the ~~Support Enforcement Services program~~ child support
8 enforcement section, division of programs, office of children and family services,
9 Department of Children and Family Services.

10 * * *

11 §236.1.2. Family and child support programs; responsibilities

12 * * *

13 G. In any case in which the department is providing services under this
14 Subpart to obtain an order, judgment, or agreement of support or to recoup support
15 payments against the responsible person, the court shall not cancel any accrued
16 arrearages unless the department, through the ~~SES~~ CSE administrator, has
17 determined that there is no reasonable possibility of collecting the arrearages.

18 * * *

19 §236.1.4. Family and child support programs; financial institution duties;
20 responsibilities

21 * * *

22 E. The office of children and family services, child support enforcement
23 ~~services~~ section, which obtains data match information on an individual from a
24 financial institution pursuant to this Subsection may disclose such data match
25 information only for the purpose of, and to the extent necessary in, establishing,
26 modifying, or enforcing a child support obligation of such individual.

27 * * *

1 D. The support services authorized by this Subpart shall be provided by the
 2 office of children and family services, ~~Support Enforcement Services program~~ child
 3 support enforcement section. Field officers responsible for supplying these services
 4 shall be designated as support enforcement regional administrators, support
 5 enforcement district managers, social service analyst supervisors, and social service
 6 analysts. Such officers shall have the power and authority to make arrests, supervise
 7 the probation of offenders, serve notices, orders, subpoenas, summons, citations,
 8 motions, and writs, and to execute all warrants and orders and to perform any other
 9 duties incident to their office. All such officers are hereby authorized to carry
 10 weapons and arms, concealed or openly, while in the actual performance of any duty
 11 or while under assignment to any duty, but under no circumstances shall officers be
 12 authorized to carry weapons unless they have been trained in the proper carrying and
 13 use of firearms by a recognized firearm training program.

14 * * *

15 §236.3. Enforcement of support by income assignment

16 A. For purposes of this Section, the following words have the meaning
 17 ascribed to them by this Section unless the context clearly indicates a different
 18 meaning:

19 * * *

20 (2) "Department" means the Department of Children and Family Services,
 21 office of children and family services, child support enforcement ~~services~~ section.

22 * * *

23 §236.10. State case registry of child support orders

24 A. The secretary of the Department of Children and Family Services shall
 25 create an automated state case registry of child support orders within the office of
 26 children and family services, child support enforcement ~~services~~ section.

27 B. The automated state case registry of child support orders, hereinafter
 28 referred to as the "state case registry", shall contain records with respect to each case
 29 in which services are being provided by the child support enforcement ~~services~~

1 section and each support order established or modified in the state on or after
2 October 1, 1998.

3 * * *

4 D. Clerks of court in the state's judicial districts shall provide the required
5 information to the child support enforcement ~~services~~ section for use in developing
6 the state case registry. The court shall require the parties, or the attorneys
7 representing the parties, to provide the required information to the clerks of court.
8 The Department of Children and Family Services shall enter into cooperative
9 agreements with clerks of court to provide for reimbursement of the actual costs of
10 collecting and transmitting the information required by this Section.

11 * * *

12 §236.12. Plan for parental participation of support; required work activities

13 * * *

14 B. For purposes of this Section:

15 (1) "Department" means the child support enforcement ~~services~~ section,
16 office of children and family services, Department of Children and Family Services.

17 * * *

18 §236.14. Employer reporting program

19 * * *

20 D.(1) An employer shall report to the Department of Children and Family
21 Services, office of children and family services, child support enforcement ~~services~~
22 section any of the following:

23 * * *

24 H.

25 * * *

26 (2) If a match is revealed with respect to the social security numbers in the
27 state directory of new hires and is in the state case registry, the state directory of new
28 hires shall provide the ~~office of~~ child support enforcement ~~division~~ section with the

1 employee's name, address, and social security number, and the employer's name,
2 address, and employer's identification number.

3 * * *

4 §236.15. Limited administrative authority for certain paternity and child support
5 actions

6 A.

7 * * *

8 (1) In cases in which the Department of Children and Family Services, office
9 of children and family services, child support enforcement services section, referred
10 to in this Section as "agency", is providing services, the agency may, in cases in
11 which paternity is at issue, order all parties to submit to genetic testing.

12 * * *

13 §236.16. Child support mortgage and privilege by affidavit; effect of filing

14 A. The director of the child support enforcement services section, office of
15 children and family services, Department of Children and Family Services may cause
16 a "Child Support Mortgage and Privilege by Affidavit of ~~DSS~~ DCFS", as provided
17 in R.S. 13:4291(B), to be recorded in the mortgage records of any parish in which
18 the support obligor owns movable or immovable property, and with the office of the
19 secretary of state for inclusion in the master index authorized under R.S. 10:9-519.
20 Such affidavit when filed shall operate as a first lien, privilege, and legal mortgage
21 on all of the movable and immovable property of the support obligor from the date
22 of such filing only, and shall not affect liens, privileges, chattel mortgages, or
23 security interests as provided in R.S. 10:9-101 et seq. or mortgages already affecting
24 or burdening such property at the date of such filing. Such filing shall apply to all
25 unpaid support obligations that may accrue after such filing, and the property of the
26 support obligor shall be subject to seizure and sale for the payment of such support
27 obligation and arrearages according to the preference and rank of the lien, privilege,
28 security interest, and mortgage securing their payment. Notwithstanding any

1 provision of this Subsection, such affidavit shall not operate as a lien, privilege, or
2 legal mortgage on any licensed or titled motor vehicle.

3 B. The director of the child support enforcement ~~services~~ section, office of
4 children and family services, Department of Children and Family Services, or his
5 designee, may release all or any portion of the property subject to any lien or
6 judgment obtained pursuant to this Section from such lien or judgment, or may
7 subordinate such lien or judgment to other liens and encumbrances if he determines
8 that the support obligation and arrearages are sufficiently secured by a lien or
9 judgment on other property or through other security, or that the release, partial
10 release, or subordination of such lien or judgment will not endanger or jeopardize the
11 collection of support obligations or arrearages.

12 * * *

13 §238. Unpaid child support, release of information

14 * * *

15 F. Nothing in this Section shall authorize the Department of Children and
16 Family Services or the ~~office of~~ child support enforcement ~~services~~ section to
17 contract for hire with any private attorney or entity for the collection of child support
18 or the provision of IV-D services.

19 * * *

20 §2136.2. Louisiana Protective Order Registry

21 * * *

22 F. The judicial administrator's office shall make the Louisiana Protective
23 Order Registry available to state and local law enforcement agencies, district
24 attorney offices, the Department of Children and Family Services, office of children
25 and family services, child support enforcement ~~services~~ section, the Department of
26 Health and Hospitals, bureau of protective services, the Governor's Office of Elderly
27 Affairs, elderly protective services, the office of the attorney general, and the courts.

1 Section 8. R.S. 51:1442(4) is hereby amended and reenacted to read as follows:

2 §1442. Definitions

3 As used in this Chapter, the following words and phrases shall have the
4 following meanings:

5 * * *

6 (4) "Department" means the Department of Children and Family Services,
7 office of children and family services, child support enforcement ~~services~~ section.

8 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Schroder

HB No. 389

Abstract: Makes technical corrections to provisions relative to child support enforcement functions of DCFS.

Proposed law changes the name of the organizational unit of DCFS which is responsible for child support enforcement duties from "support enforcement services" to "child support enforcement section"; and makes technical corrections relative to child support enforcement functions of the department.

(Amends R.S. 6:333(F)(14), R.S. 9:315.9(A)(6), 315.16(A), 315.40(1), 399.1(A) and (F)(3) and (4), and 406(B)(2) and (C)(2), R.S. 11:441.1(F), R.S. 13:4291(B)(1) and (C), R.S. 27:364(A)(1)(b)(vi), R.S. 40:34(B)(1)(h)(iv) and (E)(1) and 46.1(D) and (F)(intro. para.), R.S. 46:56(M)(1), 236.1.1(9)(b) and (13), 236.1.2(G), 236.1.4(E), 236.1.5(C), 236.1.7(B), 236.1.8(D), 236.3(A)(2), 236.10(A), (B), and (D), 236.12(B)(1), 236.14(D)(1)(intro. para.) and (H)(2), 236.15(A)(1), 236.16, 238(F), and 2136.2(F), and R.S. 51:1442(4))